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In re Application of :  
WINKENS, Frank et al. :  
Application No.: 10/577,280 : DECISION ON  
PCT No.: PCT/EP00/10164 :  
Int. Filing Date: 16 October 2000 : PETITION  
Priority Date: 15 October 1999 :  
Attorney Docket No.: MSA266R1 : UNDER 37 CFR 1.137(b)  
For: CAPACITANCE SENSOR FOR :  
DETECTING THE FILL LEVEL OF A :  
MEDIUM IN A CONTAINER :  
:

This decision is in response to applicants' petition under 37 CFR 1.137(b) filed in the United States Patent and Trademark Office on 25 April 2006.

### **BACKGROUND**

On 16 October 2000, applicants filed international application PCT/EP00/10164, which claimed a priority date of 15 October 1999. A copy of the international application was transmitted to the Office by the International Bureau on 26 April 2001. A demand for international preliminary examination was filed on 30 April 2001. The deadline for entry into the national stage in the United States was 15 April 2002.

On 25 April 2006, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee, a petition to revive and a declaration.

### **DISCUSSION**

A petition to revive an abandoned application under 37 CFR 1.137(b) must be filed without intentional delay from the time the application became abandoned and/or applicant first became aware of the abandoned status of the application. A petition under 37 CFR 1.137(b) must be accompanied by (1) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, (2) a proposed response, (3) the petition fee required by law (37 CFR 1.17(m)), and (4) a terminal disclaimer and fee (if the international application was filed prior to June 8, 1995).

Items (2), (3) and (4) have been satisfied. The basic national fee and petition fee have been paid. A terminal disclaimer is not required as the application was filed on or after 08 June 1995.

Item (1) has not been satisfied. As this application has been abandoned for an extended period of time, applicants must state or literally mean "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional. Applicants' statement will not be construed.

Applicants have supplied a declaration of the inventors in a language other than English, but it is not on an approved USPTO form and is not accompanied by a statement that the English text is an accurate translation of the foreign language text. 37 CFR 1.69. A statement under 37 CFR 1.69 or a new oath or declaration of the inventors in compliance with 37 CFR 1.69 and 37 CFR 1.497(a)-(b) is required.

**CONCLUSION**

For the above reasons, the petition under 37 CFR 1.137(b) is **DISMISSED** without prejudice.

The application remains **ABANDONED**.

Any request for reconsideration must be filed within a time period of **TWO (2) MONTHS** from the mail date of this Decision. Any request for reconsideration of this decision should include a cover letter entitled "Renewed Submission Under 37 CFR 1.137(b)".

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

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